

MEMORANDUM

TO: Members, Public Disclosure Commission

FROM: Philip E. Stutzman, Director of Compliance

DATE: August 25, 2003

SUBJECT: Status of Compliance Cases

Enclosed is an update of all compliance activity since my last memo to you dated July 18, 2003. If you would like additional information, please let me know.

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Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

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Part I

Investigations Completed

Cases Scheduled For Hearing:

Scheduled for Full Enforcement Hearing (None resulting from investigations. See September 3, 2003 meeting agenda for group enforcement hearings.)

Scheduled for Brief Enforcement Hearing (None resulting from investigations. See September 10, 2003 brief enforcement hearing agenda for group enforcement hearings.)

Cases Closed

The following cases were closed as a result of enforcement hearings: (Respondents may appeal the results of enforcement hearings. For the results of appeals, see “Compliance” and “Results of Enforcement” on the PDC’s home page at www.pdc.wa.gov)

Full Enforcement Hearings:

Rickert, Marilou--Case #03-147; Investigator: Sally Parker

Date Received: December 2, 2002

Date Started: December 6, 2002

Section of Law: RCW 42.17.530

Status: Investigation Complete

Summary: A complaint was filed by State Senator Tim Sheldon alleging that Marilou Rickert, a candidate for State Senate in the 35th Legislative District in 2002, sponsored political advertising that contained a false statement of material fact made with actual malice, in violation of RCW 42.17.530.

Disposition: An enforcement hearing before the full Commission was held on July 29, 2003. It was found that Marilou Rickert committed a single violation of RCW 42.17.530 by sponsoring political advertising that contained a false statement of material fact that was made with actual malice. Marilou Rickert wrote and paid for a political advertising brochure, which was titled “THERE IS A DIFFERENCE.” The brochure stated that Senator Tim Sheldon “voted to close

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a facility for the developmentally challenged in his district.” The brochure was mailed to voters in the 35th district between October 16, 2002 and October 28, 2002. Before preparing and mailing the brochure, Marilou Rickert made no effort to verify Senator Sheldon’s voting record including but not limited to contacting his office, contacting the Legislature or legislative staff, or checking the Legislature’s website. PDC staff’s investigation found that Senator Sheldon did not vote in the Washington State Legislature to close Mission Creek. In fact, Senator Sheldon voted against ESSB 6387, the appropriation bill that specifically called for the closure of Mission Creek. Marilou Rickert was assessed a civil penalty of \$1,000.

Brief Enforcement Hearings: For the results of group enforcement brief enforcement hearings, other than from investigations, see “Compliance” and “Results of Enforcement” on the PDC’s home page at www.pdc.wa.gov)

Hunter, Ross--Case #03-071; Investigator: Kurt Young

Date Received: October 21, 2002

Date Started: October 21, 2002

Section of Law: RCW 42.17.080 and .090

Status: Investigation Complete

Summary: A complaint was filed by Justin Kawabori alleging that Ross Hunter, a 2002 candidate for State Representative in the 48th Legislative District, failed to timely file the 21-day pre-general C-4 report that was due to be filed no later than October 15, 2002, and that the Hunter Campaign also failed to timely disclose obligations for orders placed.

Disposition: A brief enforcement hearing was held on July 31, 2003. It was found that the Ross Hunter Campaign failed to timely disclose orders placed, debts, and obligations incurred for work on mailings undertaken by a political consulting firm during the 2002 campaign in violation of RCW 42.17.080 and .090. The Ross Hunter Campaign was assessed a civil penalty of \$300, of which \$200 was suspended on the condition the campaign commits no further violations of RCW 42.17 through the 2004 election.

Hargraves, Steven--Case #03-150; Investigator: Tony Perkins

Date Received: December 5, 2002

Date Started: December 13, 2002

Section of Law: RCW 42.17.080 and .090

Status: Investigation Complete

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Summary: A complaint was filed by Richard Latham alleging that Steven Hargraves, a candidate for Franklin County Sheriff, failed to timely file reports of contribution and expenditure activities in accordance with RCW 42.17 during the 2002 election.

Disposition: A brief enforcement hearing was held on July 31, 2003. It was found that the Steven Hargraves Campaign timely filed the seven-day pre-primary C-4 report on September 9, 2002, but did not include Schedule A and B forms, listing the details of monetary deposits received, in-kind contributions received, and monetary and in-kind expenditures. On December 27, 2002, the Respondent filed Schedule A and B forms for the seven-day pre-primary election reporting period. The Schedule A report detailed three expenditures for print and broadcast political advertising totaling \$1,430, and the Schedule B report detailed four in-kind contributions of media for political advertising totaling \$2,145. The reports disclosing the details of those contribution and expenditure activities were filed 108 days late, and 101 days after the September 17, 2002, primary election. In addition, the campaign was required to file a post-election C-4 report by October 10, 2002, that was also not submitted until December 27, 2002, disclosing a monetary expenditure of \$2,450 for broadcast political advertising made 7 days before the primary election, and was reported 78 days late. The late-reported activity from the 7-day pre-primary election and post-election periods accounted for 30% of the contributions received and 87% of the expenditures made by the Hargraves campaign during the election. The Steven Hargraves Campaign was found in violation of RCW 42.17.080 and .090 and was assessed a civil penalty of \$100.

Sultanites for the Truth--Case #03-159; Investigator: Suemary Trobaugh

Date Received: March 7, 2003

Date Started: March 14, 2003

Section of Law: RCW 42.17.040, .080 and .090

Status: Investigation Complete

Summary: A complaint was filed by John Dick, board member of the Pro Sultan committee, alleging that “Sultanites for the Truth”(SFTT committee hereafter) failed to register as a political committee in opposition to a local ballot proposition. In addition, the complaint also alleged that SFTT failed to report contribution and expenditure activities undertaken to produce and distribute a four-page newsletter concerning the ballot proposition.

Disposition: A brief enforcement hearing was held on July 31, 2003. It was found that SFTT received a contribution of \$485.46 on February 10, 2003 and was required to file a C-1pc committee registration by February 24, 2003. The C-

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1pc was filed 35 days late on March 31, 2003. SFTT also failed to timely file reports of monetary contributions received, in-kind contributions received and expenditures incurred as required for a political committee opposing a local ballot proposition. The Sultanites for the Truth Committee was assessed a civil penalty of \$300, of which \$150 was suspended on the condition the Respondent commits no further violations of RCW 42.17 for a period of four years from the date of the order.

The following case was dismissed with the concurrence of the chair during this period:

Eyman, Tim--Case #03-244; Investigator: Kurt Young

Date Received: May 19, 2003

Date Started: May 22, 2003

Section of Law: RCW 42.17.020, RCW 42.17.080, & RCW 42.17.090

Status: Investigation Complete

Summary: A complaint was filed by Steve Zemke alleging that Tim Eyman, initiative consultant and fund raiser, solicited and accepted contributions to a “legal defense fund” and then used some of those funds to perform services for ballot measures without disclosing those activities.

Disposition: Dismissed with the concurrence of the Chair. It was found that Tim Eyman began receiving unsolicited donations in February of 2002 to use for legal-related expenses regarding a PDC investigation in Case No. 02-281, and deposited those funds into a separate personal savings account. Donations received by Mr. Eyman for “legal defense fund” purposes between the period of March 4, 2002 and August 1, 2003 totaled \$145,817.94. The account earned bank interest of \$510.91, making total receipts and interest \$146,328.85. Expenditures totaled \$148,638.27 as of August 1, 2003, and included legal fees, fines, and costs related to the operation of the “legal defense fund.” This amount also included legal defense related expenditures paid by Mr. Eyman totaling \$2,069.87 for which he has not been reimbursed. No evidence was found to indicate that any of the funds solicited were used to pay Mr. Eyman or his family’s personal expenses. No evidence was found to indicate that any additional funds have been deposited or transferred into the bank savings account established for the “legal defense fund”, or that payments had been made to enable Mr. Eyman to spend time assisting or promoting ballot measure campaigns and/or initiatives to the legislature.

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Cases Referred To Attorney General For Further Action

Concerned Citizens for Better Government (CCBG) and Joseph Coomer, Treasurer, CCBG--#00-241; Investigator: Kurt Young

Date Received: October 21, 1999

Date Started: October 25, 1999

Section of Law: RCW 42.17.080 and .090

Status: Investigation Complete

Summary: A complaint was received from Meg Van Wyk, alleging that Concerned Citizens for Better Government (CCBG) and Joseph Coomer, Treasurer, CCBG, distributed political advertising without properly reporting or filing the required campaign disclosure reports. An enforcement hearing was held February 27, 2001.

Disposition: The Commission found that the Respondent committed multiple apparent violations and referred the matter to the Attorney General's Office.

Washington Education Association—Case #01-002; Investigator: Lori Anderson

Date Received: August 15, 2000

Date Started: August 18, 2000

Section of Law: RCW 42.17.760

Status: Investigation Complete

Summary: A complaint was received from the Evergreen Freedom Foundation and public school employees alleging that the Washington Education Association (WEA) and Washington School Districts are in violation of RCW 42.17.680 and 42.17.760. The complaint alleges that Washington School Districts are in violation of RCW 42.17.680 by withholding dues and fees from employees' wages that are used by the WEA and the National Education Association (NEA) for contributions to political campaigns. The complaint also alleges that the WEA is violating RCW 42.17.760 by using agency shop fees for political contributions and expenditures without the affirmative authorization of non-members. The complaint was forwarded to the PDC by the Attorney General's Office following its receipt of the complaint from EFF. The complaint was filed with the Attorney General's Office and all County Prosecuting Attorneys requesting that an action be commenced in the courts to address the apparent violations of RCW 42.17. The complaint said that if an action were not commenced in court the complainant would seek appropriate legal and equitable relief pursuant to RCW 42.17. RCW 42.17.400(4) provides a 45-day time period before a complainant may take steps to initiate a citizen's action in superior court.

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Disposition: The Commission accepted a Stipulation of Facts, Violations and Recommendations, found that the Respondent committed an apparent violation of RCW 42.17.760, stipulated to as actual violations, and referred the matter to the Attorney General’s Office.

Thurston County Superior Court Disposition: The Attorney General’s Office filed suit in Thurston County, and the case went to trial in Thurston County Superior Court. The Thurston County Superior Court found the Respondent intentionally violated RCW 42.17.760, and assessed a total civil penalty of \$400,000. The Washington Education Association has appealed that decision.

Permanent Offense, Permanent Offense Incorporated, Traffic Improvement Initiative Committee, and Tim Eyman—Case #02-281; Investigator: Kurt Young; (Also received 45-Day Letter of Complaint)

Date Received: February 6, 2002

Date Started: February 6, 2002

Section of Law: RCW 42.17.080, .090, .120, & .125

Status: Investigation Complete

Summary: A complaint was filed by PDC Executive Director Vicki Rippie against Permanent Offense, Permanent Offense Incorporated, Traffic Improvement Initiative Committee, and Tim Eyman alleging the following: 1) failure to properly report committee expenditures, including the purpose of those expenditures; 2) concealing the fact that committee funds were expended to pay Mr. Eyman for compensation for the work he performed on behalf of Permanent Offense; 3) use of committee funds to pay for Mr. Eyman’s personal expenses. In addition, a “45-day letter of complaint” was filed by Richard A. Smith and Knoll Lowney, attorneys with Smith & Lowney, PLLC, representing Permanently Offended, with the Office of the Attorney General and the County Prosecutor’s Offices in King, Snohomish and Thurston counties against Permanent Offense, Permanent Offense, Inc., Traffic Improvement Initiative, Tim Eyman, Karen Eyman, and Suzanne Karr alleging violations similar to those outlined in the PDC complaint.

Disposition: A report to the Commission was presented at its special April 9, Commission meeting. The Commission found that the Respondent committed multiple apparent violations and referred the matter to the Attorney General’s Office.

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

**National Education Association—Case #02-282; Investigator: Suemary Trobaugh;
(45-Day Letter of Complaint)**

Date Received: January 31, 2002

Date Started: February 6, 2002

Section of Law: RCW 42.17.040, .080, .090, .680 and .760

Status: Investigation Complete

Summary: On January 31, 2002, the Evergreen Freedom Foundation, Lowell Johnson, Carrie Riplinger, Susan Kobes and David Williams, through attorney Jeanne Brown filed a citizen’s action letter under RCW 42.17.400(4) with the Office of the Attorney General and the State of Washington’s County Prosecutors’ Offices. The complaint alleged violations by the NEA’s Ballot Measure/Legislative Crisis and Media Campaign Fund of 1) RCW 42.17.040 et. seq (failure to register as a political committee); 2) violations of RCW 42.17.680(3) (diverting a portion of an employee's wages or salaries for contributions to political committees without the written request of the employee); and 3) violations of RCW 42.17.760 (using agency shop fees paid by non members to influence an election without written authorization by the Individual). On February 6, 2002, the Office of the Attorney General officially notified the PDC that they were referring the matter to the PDC for investigation. PDC Staff completed a Preliminary Report of Investigation and prepared a memorandum to Commission members concerning Staff’s findings and recommendation.

Disposition: On April 9, 2002, the matter was on the Commission’s agenda as a report to the Commission. In light of the complaint the Evergreen Freedom Foundation filed against the NEA in Thurston County Superior Court on April 8, 2002 under provisions of RCW 42.17.400(4), the Commission accepted Staff’s recommendation that it take no action in this case. On August 23, 2002, Thurston County Superior Court Judge Paula Casey dismissed the lawsuit filed by EFF against NEA. Judge Casey’s dismissal was based on a decision by the WA State Court of Appeals in State ex rel. Evergreen Freedom Foundation v Washington Education Association, No. 25272-4-II, where the court stated that “Before the 10-day period¹ had passed after EFF’s second letter to the AG, the AG forwarded the allegations to the PDC for investigation...Because the AG acted before the end of the 10-day period, EFF could not bring a citizen’s action lawsuit under

¹ RCW 42.17.400 states: “The citizen action may be brought only if the attorney general...ha(s) failed to commence an action hereunder within forty-five days and after such notice and such person has thereafter further notified the attorney general...that said person will commence a citizen’s action within ten days upon their failure to do so...”

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RCW 42.17.400...” By a unanimous vote, the Commission dismissed the allegations that NEA violated RCW 42.17.040 and 42.17.680.

On October 2, 2002, at a special Commission meeting, by a unanimous vote, the Commission dismissed the allegations that NEA violated RCW 42.17.040 and 42.17.680. By a unanimous vote, the Commission found multiple apparent violations of RCW 42.17.760 by the NEA when it used agency shop fees to make contributions or expenditures to influence an election or to operate a political committee without authorization from the employees. The Commission found that given the insufficiency of its penalty authority, in lieu of holding an enforcement hearing, the Commission referred the above referenced apparent violations to the Washington State Attorney General's Office for appropriate action pursuant to RCW 42.17.360 and .395 and WAC 390-37-100.

Concerned Citizens for Better Government (CCBG) and Joseph Coomer, Treasurer, CCBG--#03-080; Investigator: Kurt Young

Date Received: November 6, 2002

Date Started: November 6, 2002

Section of Law: RCW 42.17.080 and .090

Status: Investigation Complete

Summary: A complaint was filed by Vicki Rippie, PDC Executive Director, alleging that the Concerned Citizens for Better Government (CCBG) and Joseph Coomer, Treasurer of CCBG distributed political advertising related to more than one election cycle without reporting contribution and expenditures activities that were undertaken.

Disposition: This matter was presented as a report to the Commission on March 25, 2003. The Commission found multiple apparent violations of RCW 42.17.065, 42.17.080 and 42.17.090 by the Respondents for failing to timely report contribution and expenditure information for 2001 and 2002 activities supporting or opposing candidates and ballot propositions. Given the insufficiency of its penalty authority, the Commission referred the apparent violations to the Attorney General's Office for appropriate action.

Hopkins, Hank/Environmental Materials Transport, LLC--Case #03-153; Investigator: Sally Parker

Date Received: April 15, 2002

Date Started: April 19, 2002

Section of Law: RCW 42.17.105 & .120

Status: Investigation Complete

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Summary: This case is related to PDC Case No. 02-296. Hank Hopkins as President of Environmental Materials Transport, LLC (EMTLLC) was added as a respondent by PDC staff alleging that Mr. Hopkins made contributions in excess of \$5,000 within 21 days of the 2001 general election by contributing \$20,000 to Don Wasson’s political committee to support Des Moines City Council candidates Petersen, Benjamin and Steenrod. It was further alleged that Mr. Hopkins and EMT LLC concealed the source and amount of an initial \$1,000 payment that was made to Don Wasson and his political committee to support the campaigns of Gary Petersen and Richard Benjamin. In addition, it is also alleged that Mr. Hopkins and EMT LLC concealed the source and amount of contributions that were made to Mr. Wasson’s political committee totaling \$20,000 that also supported the 2001 Council campaigns of Mr. Petersen, Mr. Benjamin, and Ms. Steenrod.

Disposition: An Enforcement hearing before the Full Commission was held on March 25, 2003. The Commission found multiple apparent violations of RCW 42.17.120 by the Respondents for concealing contributions used to benefit candidates in the 2001 Des Moines City Council election. Given the insufficiency of its penalty authority, the Commission referred the apparent violations to the Attorney General’s Office for appropriate action.

Part II

Active Investigations

Investigations In Progress

Benjamin, Richard; Peterson, Gary; Foote, Michael; Case #02-296; Investigator: Sally Parker

Date Received: April 15, 2002

Date Started: April 19, 2002 (Hearing held March 25, 2003 for portion of issues)

Section of Law: RCW 42.17.120, .080, .090, .240

Status: Under Investigation

Summary: A complaint was received from Dave Kaplan alleging that Gary Peterson failed to disclose information on his Personal Financial Affairs Statement (PDC Form F-1); that consulting services were provided by Don Wasson to two Des Moines City Council candidates that exceeded the mini reporting limits; that the Des Moines Marina Association made contributions to three candidates for Des Moines City Council that were not disclosed; that a

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political advertisement was produced and distributed in the City of Des Moines without sponsor identification; that additional political advertisements supporting or opposing candidates for Des Moines City Council failed to contain proper sponsor identification and were not timely reported; and that public facilities of King County Water District #54 were used to produce and distribute a flyer that supported or opposed candidates for Des Moines City Council in the 2001 City Council elections. On May 1, 2002, a complaint addressing several of the same issues was received from Stanley M. Scarvie on behalf of Citizens for Des Moines. Mr. Scarvie’s complaint has been combined with Case #02-296.

NOTE: The investigative portion of the complaint regarding Michael Foote’s alleged use of the public facilities of King County Water District #54 to produce and distribute a flyer that supported or opposed candidates has been suspended pending the outcome of pending litigation.

In addition, Don Wasson was added as a Respondent and the issues concerning Mr. Wasson, as well as the issues concerning other Respondents named in the original complaint, have been handled through an enforcement hearing held March 25, 2003. (See Results of Enforcement Hearings on PDC Web page under Compliance.) The remaining issues deal with allegations of concealment (RCW 42.17.120) by Richard Benjamin and Gary Peterson, reporting issues (RCW 42.17.080 and .090 by Michael Foote and Gary Peterson, and financial affairs reporting issues (RCW 42.17.240) by Gary Peterson.

Disposition: Pending

The American Dream Coalition--Case #03-079; Investigator: Kurt Young

Date Received: November 1, 2002

Date Started: November 1, 2002

Section of Law: RCW 42.17.100 and .530

Status: Under Investigation

Summary: A complaint was filed by John D. Morgan, Chair of the Kitsap County Democratic Central Committee, alleging that “The American Dream Coalition” failed to report independent expenditures made in opposition to Tim Botkin, an incumbent Kitsap County Commissioner seeking re-election, and made false statements about Mr. Botkin in political advertising paid for and sponsored by “The American Dream Coalition”.

Disposition: Pending

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Asher, Dave--Case #03-160A; Investigator: Suemary Trobaugh

Date Received: August 21, 2003

Date Started: August 21, 2003

Section of Law: RCW 42.17.640

Status: Under Investigation (Case dismissed July 15, 2005 and re-opened August 21, 2003 after receiving additional evidence.)

Summary: A complaint was filed by Lois Gustafson alleging that Dave Asher, a candidate for State Representative in 2002 from the 45th Legislative District, exceeded the 2002 contribution limits by accepting an in-kind contribution from Argosy Cruise Lines for a fund raising event that exceeded the \$625 contribution limit for an election.

Disposition: Pending. This complaint was originally received March 20, 2003 and was dismissed with the concurrence of the Chair on July 15, 2003. It was initially found that on September 9, 2002, the David Asher campaign had a two-hour fundraiser on the MV Kirkland, an Argosy Cruise Lines vessel, with eighty people in attendance. The MV Kirkland remained docked for the duration of the fundraiser at Kirkland Marina, and the campaign did not use any catering or host beverage services from Argosy Cruise Lines. The campaign provided the food for the event, and those in attendance paid Argosy for their drinks at the cash bar. The President of Argosy Cruise Lines confirmed the fair market value of the use of the docked boat of \$625, and provided written confirmation of the value to the Asher campaign on April 7, 2003. In addition, he stated to PDC staff that the \$625 value of the moored boat was based on the past lack of use of the vessel on a Monday night, the fact that the boat remained moored during the entire two-hour event, and no catering services were used. Based on new information provided to the Commission, the investigation has been re-opened.

Marin, Richard--Case #03-489; Investigator: Sally Parker

Date Received: June 19, 2003

Date Started: June 30, 2003

Section of Law: RCW 42.17.080, & RCW 42.17.090

Status: Under Investigation

Summary: A complaint was filed Raymond Martin, alleging the Richard Marin, a candidate for Edmonds City Council, by failing to timely file reports of campaign contribution and expenditure activities.

Disposition: Pending

Note: If the Disposition shows "Pending," the case has not yet been resolved and no finding on the allegations has been made.

Reardon, Aaron--Case #03-490; Investigator: Lori Anderson

Date Received: June 25, 2003

Date Started: June 30, 2003

Section of Law: RCW 42.17.530

Status: Under Investigation

Summary: A complaint was filed by Stephen Dean, alleging that Aaron Reardon, an incumbent State Senator and candidate for Snohomish County Executive in 2003, listed endorsements on a campaign website that Mr. Reardon had not received.

Disposition: Pending

Citizens for Accountable Government--Case #04-020; Investigator: Suemary Trobaugh

Date Received: July 9, 2003

Date Started: July 21, 2003

Section of Law: RCW 42.17.040, RCW 42.17.080 & RCW 42.17.090

Status: Under Investigation

Summary: A complaint was filed by Robert Smith alleging that Citizens for Accountable Government failed to register and report as a political committee for activities undertaken during a Spring of 2001 ballot proposition.

Disposition: Pending

Reardon, Aaron--Case #04-021; Investigator: Lori Anderson

Date Received: July 31, 2003

Date Started: August 15, 2003

Section of Law: RCW 42.17.080, RCW 42.17.090 & WAC 390-24-032

Status: Under Investigation

Summary: A complaint was filed by Lawrence Dunn, alleging that Aaron Reardon, an incumbent State Senator, paid for expenditures out of his surplus funds account that were not permissible.

Disposition: Pending

Foote, Michael -- Case #04-022; Investigator: Sally Parker

Date Received: August 12, 2003

Date Started: August 22, 2003

Section of Law: RCW 42.17.040

Status: Under Investigation

Summary: A complaint was received from Stan Scarvie alleging that Michael Foote, a candidate for Des Moines City Council, failed to timely file a Candidate

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Registration Statement (PDC Form C-1) after becoming a candidate for Des Moines City Council in 2003.
Disposition: Pending

Sullivan, Cynthia (Surplus Funds)-- Case #04-023; Investigator: Tony Perkins

Date Received: August 22, 2003
Date Started: August 25, 2003
Section of Law: RCW 42.17.090
Status: Under Investigation
Summary: A complaint was received from Stephen Finley alleging that Cynthia Sullivan, an incumbent King County Council member up for re-election in 2003, failed to timely file reports of activities undertaken with her surplus funds account, and that expenditures from her surplus funds account were not permissible.
Disposition: Pending

Sullivan, Cynthia -- Case #04-024; Investigator: Tony Perkins

Date Received: August 22, 2003
Date Started: August 25, 2003
Section of Law: RCW 42.17.090
Status: Under Investigation
Summary: A complaint was received from Stephen Finley alleging that Cynthia Sullivan, an incumbent King County Council member up for re-election in 2003, filed late and incomplete reports of contributions and expenditures regarding her 2003 re-election campaign.
Disposition: Pending

Cases Under Review

Fortunato, Phil, WA State Republican Party and Minnick, Chad--Case #03-154; Investigator: Lori Anderson

Date Received: December 30, 2002
Date Started: January 10, 2003
Section of Law: RCW 42.17.530
Status: Under Review
Summary: A complaint was filed by Geoff Simpson, a candidate for State Representative in the 47th Legislative District in 2002, against Phil Fortunato, also a candidate for State Representative in the 47th Legislative District, the

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Washington State Republican Party and Chad Minnick, a political consultant, alleging that the Respondents sponsored political advertising that contained false statements of material fact made with actual malice against Geoff Simpson during the 2002 legislative campaign between Mr. Fortunato and Mr. Simpson.
Disposition: Pending

NOTE: On July 29, 2002, King County Superior Court Judge Richard McDermott issued a Permanent Injunction in *Washington Education Association v. PDC et al.* against the PDC’s distribution of, investigations concerning, and enforcement of certain provisions of the PDC’s “Guidelines for School Districts in Election Campaigns” that were finalized by the PDC in August 2001. The Guidelines explain the PDC’s interpretation of RCW 42.17.130. The Findings of Fact and Conclusions of Law that were also entered by the superior court, along with the Permanent Injunction, raise questions about the constitutionality of RCW 42.17.130. The PDC filed an appeal from the Permanent Injunction with the Washington State Supreme Court, and also filed an Emergency Motion to Stay the Injunction Pending Appeal. On September 4, 2002, that motion was denied. As a result, the Permanent Injunction, and the Findings of Fact and Conclusions of Law, remain in effect.

Therefore, until the State Supreme Court has heard this case after full briefing and argument by the parties and has issued its written decision, we are suspending investigation of complaints alleging violations of RCW 42.17.130, with two exceptions. The PDC will investigate, but not bring to a hearing until the State Supreme Court issues its decision, those complaints involving the use of e-mail or internal mail systems for communicating endorsements, and the use of classrooms for distributing materials expressly advocating support for or opposition to one or more candidates. See our website for copies of the Permanent Injunction and Findings of Fact and Conclusions of Law, as well as RCW 42.17.130, WAC 390-05-271 and WAC 390-05-273.

Based on the facts above, the following investigations are suspended until further notice:

City of Vancouver (City Officials) -- Case #02-286; Investigator: Suemary Trobaugh

Date Received: January 30, 2002

Date Started: February 13, 2002

Section of Law: RCW 42.17.130

Status: Investigation Suspended

Summary: A complaint was received from Kelly Hinton alleging that officials of the City of Vancouver used city facilities to support a February 5, 2002, local ballot proposition.

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Disposition: Pending

Spencer, Dane-- Case #02-291; Investigator: Suemary Trobaugh

Date Received: March 18, 2002

Date Started: April 1, 2002

Section of Law: RCW 42.17.130

Status: Investigation Suspended

Summary: A complaint was received from Tom Hujar alleging that officials of the Bainbridge Island Park District used park facilities to support a February 5, 2002, local ballot proposition.

Disposition: Pending

Foote, Michael -- Case #02-292; Investigator: Sally Parker

Date Received: April 1, 2002

Date Started: April 15, 2002

Section of Law: RCW 42.17.130 and .510

Status: Investigation Suspended

Summary: A complaint was received from Robert Awford alleging that Michael Foote used the facilities of King County Water District #54 to produce and distribute a flyer that supported or opposed candidates for Des Moines City Council during the 2001 City Council elections.

Disposition: Pending

Pearsall-Stipek, Cathy; McCarthy, Pat-- Case #02-294; Investigator: Sally Parker

Date Received: April 3, 2002

Date Started: April 15, 2002

Section of Law: RCW 42.17.130

Status: Investigation Suspended

Summary: A complaint was received from Dale Washam alleging that Cathy Pearsall-Stipek, Pierce County Auditor, used or authorized the use of facilities of the Pierce County Auditor's Office to assist her 1998 election campaign for Pierce County Auditor and the 2002 election campaign of Pat McCarthy for Pierce County Auditor. The portion of the complaint alleging that Pat McCarthy violated RCW 42.17.130 was dismissed July 22, 2002.

Disposition: Pending

Foote, Michael -- Case #02-296; Investigator: Sally Parker

Date Received: April 15, 2002

Date Started: April 19, 2002

Note: If the Disposition shows “Pending,” the case has not yet been resolved and no finding on the allegations has been made.

Section of Law: RCW 42.17.040, .080, .090, .100, .130, .240 and .510

Status: .130 Portion of Investigation Suspended

Summary: A complaint was received from Dave Kaplan alleging a number of violations against several candidates and individuals. One allegation was that Michael Foote used the facilities of King County Water District #54 to produce and distribute a flyer that supported or opposed candidates for Des Moines City Council in the 2001 City Council elections. That portion of the complaint has been suspended pending the outcome of pending litigation. See Table of Contents for location of additional case summary information.

Disposition: Pending

Anderson, Don--Case #03-007; Investigator: Kurt Young

Date Received: July 10, 2002

Date Started: July 10, 2002

Section of Law: RCW 42.17.130

Status: Investigation Suspended

Summary: A complaint was received from Karl Sloan alleging that Don Anderson, an employee of the Okanogan County Prosecutor's Office and a candidate for Okanogan County Prosecutor in 2002, violated RCW 42.17.130 by using the facilities of the Okanogan County Prosecutor's Office to support his candidacy.

Disposition: Pending